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OFFICE OF PETITIONS

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|----------------------------|------------------------------|
| In re Application of | : |
| Ralf Nowack | : |
| Application No. 10/571,046 | : DECISION GRANTING PETITION |
| Filed: March 3, 2006 | : UNDER 37 CFR 1.313(c)(3) |
| Attorney Docket No. ST3814 | : |

This is a decision on the petition, filed December 27, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).


As to petitioner's request for a refund of the issue fee, petitioner is advised that a refund of the issue fee request may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution**. The request for withdrawal from issue in this case was at the request of the applicant, not the Office. Petitioner's attention is further directed to 37 CFR 1.26, which states:

The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal or a request for an oral hearing, will not entitle a party to a refund of such fee.

Further, the issue fee was owed at the time of payment. Therefore, payment of the issue fee was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. Accordingly, the issue fee is not refundable.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.


Frances M. Hicks
Petitions Examiner
Office of Petitions